

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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EVAN RATCLIFF,

Plaintiff,

v.

ROMEO ARANAS, et al,

Defendants.

Case No. 2:18-cv-00721-RFB-DJA

**EMERGENCY ORDER FOR MEDICAL
TREATMENT**

I. INTRODUCTION

Before the Court is Plaintiff's Motion for Emergency Injunction and/or Protective Order. ECF No. 109. The Court issues a Temporary Restraining Order.

II. BACKGROUND

The Court incorporates by reference as if fully set forth herein the factual and procedural background from its previous issuance of a temporary restraining order on October 2, 2018. ECF No. 24.

Further, Plaintiff filed the instant motion on September 3, 2020. Plaintiff states he began to experience "extreme pain" in his right eye at 3:45 AM on August 27, 2020. ECF No. 109 at 1. Plaintiff previously received a cornea transplant in this eye, which has sixteen stitches as a result. Id. Plaintiff told the nurse during pill call that it appears that one of the stitches in his eye from the surgery has come loose. Id. Though Plaintiff has filed multiple grievances and gone to the infirmary requesting to be seen by a doctor or taken to the emergency room, he has yet to see a doctor. Id. at 1-3. Plaintiff states his pain is a "ten out of ten" and that as of August 29, 2020, he has experienced "a yellow discharge along with a red discharge" coming from his eye. Id. at 2.

III. LEGAL STANDARD

The analysis for a temporary restraining order is “substantially identical” to that of a preliminary injunction. Stuhlbarg Intern. Sales Co, Inc. v. John D. Brush & Co., Inc., 240 F.3d 832, 839 n.7 (9th Cir. 2001). A preliminary injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 22 (2008). To obtain a preliminary injunction, a plaintiff must establish four elements: “(1) a likelihood of success on the merits, (2) that the plaintiff will likely suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in its favor, and (4) that the public interest favors an injunction.” Wells Fargo & Co. v. ABD Ins. & Fin. Servs., Inc., 758 F.3d 1069, 1071 (9th Cir. 2014), as amended (Mar. 11, 2014) (citing Winter, 555 U.S. 7, 20 (2008)). A preliminary injunction may also issue under the “serious questions” test. Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1134 (9th Cir. 2011) (affirming the continued viability of this doctrine post-Winter). According to this test, a plaintiff can obtain a preliminary injunction by demonstrating “that serious questions going to the merits were raised and the balance of hardships tips sharply in the plaintiff’s favor,” in addition to the other Winter elements. Id. at 1134-35 (citation omitted).

IV. DISCUSSION

a. Likelihood of success on the merits

In his complaint, Plaintiff has alleged that Defendant was deliberately indifferent to his medical needs in violation of the Eighth Amendment. A prison official violates the Eighth Amendment when he acts with “deliberate indifference” to the serious medical needs of an inmate. Farmer v. Brennan, 511 U.S. 825, 828 (1994). “To establish an Eighth Amendment violation, a plaintiff must satisfy both an objective standard—that the deprivation was serious enough to constitute cruel and unusual punishment—and a subjective standard—deliberate indifference.” Snow v. McDaniel, 681 F.3d 978, 985 (9th Cir. 2012), overruled on other grounds by Peralta v. Dillard, 744 F.3d 1076 (9th Cir. 2014). To establish the objective standard prong, “the plaintiff must show a serious medical need by demonstrating that failure to treat a prisoner’s condition

1 could result in further significant injury or the unnecessary and wanton infliction of pain.” Jett v.
2 Penner, 439 F.3d 1091, 1096 (9th Cir. 2006) (citation and quotation marks omitted). The existence
3 of an injury that a reasonable doctor or patient would find important and worthy of comment or
4 treatment; the presence of a medical condition that significantly affects an individual’s daily
5 activities; or the existence of chronic and substantial pain are examples of indications that a
6 prisoner has a “serious” need for medical treatment. Id. at 1059-1060. To satisfy the deliberate
7 indifference prong, a plaintiff must show “(a) a purposeful act or failure to respond to a prisoner’s
8 pain or possible medical need and (b) harm caused by the indifference.” Id. (citation omitted).

9 The Court has previously held in issuing a temporary restraining order in this case that
10 Plaintiff is likely to succeed on the merits of his Eighth Amendment claim, and the Court’s finding
11 as to the likelihood of success on the merits remains unchanged. See ECF No. 24 at 4. As the Court
12 has previously found, “A corneal transplant is a serious medical procedure requiring significant
13 aftercare and whose failure could have devastating negative consequences for Plaintiff’s daily
14 activities.” Id. Prison staff are aware of Plaintiff’s corneal transplant, yet Plaintiff contends that
15 despite his repeated requests to be seen to address this emergent and severe pain in his eye, and
16 despite his repeated insistence that he is experiencing excruciating pain and worried one of his
17 stitches has come loose, he has not yet been seen by a doctor. By failing to provide Plaintiff
18 immediate and appropriate follow-up care to address his pain as well as treat what is evidently a
19 serious complication in terms of the yellow and red discharge from his eye, prison officials are
20 once more knowingly endangering the success of Plaintiff’s transplant and his vision.

21 22 **b. Irreparable harm**

23 Plaintiff will clearly face irreparable harm if he is not seen by a medical provider to address
24 the pain in his eye, as he alleges that he may lose the eye if it goes untreated. Plaintiff states that
25 the specialist who performed his transplant, Dr. Ksenia Stafeeva, indicated to him that if one of
26 his sixteen stiches were to come loose, he was to return for treatment immediately. ECF No. 109
27 at 3. Not only does Plaintiff face irreparable harm in the potential loss of his eye, he is experiencing
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1 ongoing pain that remains untreated, and constitutes ongoing harm in and of itself. Furthermore,
2 Defendants are not in compliance with Dr. Stafeeva's post-operative orders for Plaintiff's care.

3
4 **c. Balance of the Equities**

5 The balance of the equities is squarely in Plaintiff's favor. Defendants are constitutionally
6 required to provide Plaintiff appropriate care.

7
8 **d. Public Interest**

9 The Court also finds that the public interest is in Plaintiff's favor. The public has a strong
10 interest in ensuring that inmates are given access to adequate health care and do not have their
11 constitutional rights violated while incarcerated.

12
13 **e. Nature of the Relief**

14 The Prison Litigation Reform Act mandates that preliminary injunctive relief be narrowly
15 drawn, extend no further than necessary to correct the harm the court finds requires preliminary
16 relief, and be the least intrusive means necessary to correct that harm. 18 U.S.C. § 3626(a)(1),(2).
17 It further requires that issuing courts give substantial weight to any adverse impact on public safety
18 or the operation of a criminal justice system caused by the preliminary relief. Id.

19 The Court therefore orders that Plaintiff be seen by a medical doctor at Southern Desert
20 Correctional Center by the close of business (5:00 p.m.) Friday, September 4, 2020, to assess the
21 extent to which Plaintiff's condition requires emergency care and attention, and the potential for
22 damage to or loss of his eye or vision in the absence of appropriate care. The Court finds this relief
23 is narrowly draw and extends no further than to correct the harm Plaintiff is currently enduring,
24 and is the least intrusive means necessary, as it calls upon a medical provider employed within the
25 prison to make the initial assessment as to Plaintiff's condition. The Court has given substantial
26 weight to any adverse impact on public safety or the operation of the criminal justice system in
27 shaping the nature of the relief.

